

**OFFICIAL FILE**  
**ILLINOIS COMMERCE COMMISSION**

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

**ORIGINAL**

Commonwealth Edison Company :  
:   
Application for a Certificate of Public :  
Convenience and Necessity, pursuant to : **No. 01-0833**  
Section 8-406 of the Illinois Public Utilities :  
Act, to construct, operate and maintain a :  
new 138,000 volt electric transmission line: :  
in Cook County, Illinois. :

**Petition to Reopen the Proceeding**

To the Illinois Commerce Commission:

The Petitioner, F. Ned Dikmen (hereinafter "Dikmen"), by his attorney, Michael J. Fischer, pursuant to Title 83 of the Illinois Administrative Code Section 200.900, petitions the Illinois Commerce Commission (hereinafter "the Commission") to reopen the proceeding under Docket Number 01-0833, thereby vacating the Order issued in this matter by the Commission on June 19, 2002, and revoking the Certificate of Public Convenience issued to Commonwealth Edison Company (hereinafter "Com Ed") on June 19, 2002, until a new final Order is issued. In support of this Petition, Dikmen states as follows:

1. Title 83 of the Illinois Administrative Code Section 200.900, states:

After issuance of an order by the Commission, the Commission may, on its own motion, reopen any proceeding when it **has reason to believe that conditions of fact or law have so changed** as to require, or that the public interest requires, such reopening. No party may petition the Commission to reopen on its own motion **until after the time to petition for rehearing has expired.** (emphasis added).

2. Dikmen bring this petition seeking the reopening of the above-captioned proceeding to present new facts that have been discovered and have transpired since the final Order issuing the Certificate of Public Convenience was entered on June 19, 2002.

3. The Commission, should it decide to reopen this proceeding, would accordingly be vacating the Order issued in this matter by the Commission on June 19, 2002, until Dikmen has been provided an opportunity present to the Commission the various reasons why Com Ed should be authorized to use Dikmen's Lot 4 for construction of its underground tunnel and not Dikmen's Lot 5.

4. Should the Commission grant Dikmen's Petition, due to the reopening of this proceeding and in the absence of the Order issued on June 19, 2002, the Certificate of Public Convenience issued to Com Ed by the Commission would likewise be temporarily revoked until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002. This will withdraw from Com Ed and any of its employees, agents, and contractors the authority to advance any further with construction activity on Dikmen's lots while Dikmen's arguments are considered by the Commission.

#### **FACTS COMMON TO ALL COUNTS**

5. Dikmen is an Illinois citizen residing in the City of Chicago in Cook County, Illinois.

6. Dikmen is the Beneficiary of the Land Trust numbered 30932 and 30613 held at Cosmopolitan Bank & Trust (hereinafter "Cosmopolitan"), 801 North Clark Street, Chicago, IL 60610.

7. Commonwealth Edison Company, respondent to this petition, is an Illinois corporation doing business in the state.

8. In March of 1985 and December of 1998, the Trust purchased parts of the lots comprising the property commonly known as 1100 North Kingsbury Street, Chicago, Illinois (hereinafter "Property"). The legal description of the property is at Block 96 in Elston's Addition to Chicago in Section's 4 and 5, Township 39 North, Range 14 East of the Third Principal Meridian in Cook County, Illinois.

9. The Property is an unimproved parcel located along the Chicago River and is in an area that has recently seen growth in improvements. A number of mixed residential/commercial buildings are being planned and constructed on the properties adjacent to and surrounding the Property.

10. Dikmen is in the process of developing the Property and has spent substantial time, energy and resources in planning and development.

11. At all relevant times, pursuant to the easement with Document Number 27 475 190 (hereinafter the "First Easement"), Com Ed has had the limited right to utilize, "Lots 1, 2, 3, 4 and 5, except the Easterly 107 feet of said Lots as measured along the lot lines." A true and correct copy of the First Easement is attached hereto and made a part hereof as "Exhibit A."

12. Pursuant to the First Easement attached as Exhibit A, Com Ed has had the right to:

construct and install from time to time, use, operate, maintain, repair, replace relocate, renew, remove and enlarge poles, towers, wires, cables, conduits, manholes, tunnels and other overhead and underground equipment, or both, (with the right to add so said facilities) for the transmission and distribution of electric energy, in, upon, under, over, across, and along all or any part of the Premises with the right of access thereto at all times for any and all such purposes, and also the right to trim or cut from time to time such trees, bushes, shrubs, and saplings which interfere or threaten to interfere with any of the rights reserved hereunder.

13. At all relevant times, pursuant to the easement with Document Number 27 081 087 (hereinafter the "Second Easement"), Com Ed has had the limited right to utilize, "the

Easterly 107 feet (as measured from the lot lines) of Lot 4.” A true and correct copy of the Second Easement is attached hereto and made a part hereof as “Exhibit B.”

14. At all relevant times, pursuant to the easement with Document Number 27 081 089 (hereinafter the “Third Easement”), Com Ed has had the limited right to utilize, “the Easterly 107 feet (as measured from the lot lines) of Lot 5.” A true and correct copy of the Third Easement is attached hereto and made a part hereof as “Exhibit C.”

15. Pursuant to the Second and Third Easements, attached as Exhibits B and C respectively, Com Ed has had the right to:

- a. Construct and install from time to time, use, operate, maintain, repair, replace relocate, renew, and remove *any number of aerial wires and cables* for the transmission and distribution of electric energy over and across the Land, said wires to be *at a minimum elevation of forty-six (46) feet above Chicago City Datum*; and
- b. Construct and install from time to time, use, operate, maintain, repair, replace relocate, renew, and remove *underground* wires, cables, conduits, a tunnel or tunnels and other necessary appurtenances for the transmission and distribution of electric energy *under the surface of the Land* and in connection therewith. (emphasis added.)

16. Plaintiffs believe Com Ed began construction on the Property on or about April 4, 2005, of an underground tunnel. The ongoing excavation by Com Ed has removed a large portion of soil from the property, as depicted in a photograph taken by Dikmen on June 19, 2005, attached hereto and made a part hereof as “Exhibit D.” This significant excavation of the Property by Com Ed depicted in Exhibit D is ongoing.

17. Com Ed’s intended structure to be placed on Lot 5 of the Property has been identified as West Loop Crosby River Crossing, as noted the survey of the Property, attached hereto and made a part hereof as “Exhibit E.” The proposed structures are both at and above grade and are not overhead or underground.

18. Once Dikmen became aware that Com Ed intended to use his Lot 5, Dikmen has offered to Com Ed on numerous occasions the use Lot 4 of the Property instead of Lot 5 for the construction of all of the structures associated with the project identified as West Loop Crosby River Crossing.

19. Lot 5 and Lot 4 are adjacent lots on the Property. Lot 4 of the Property is currently the location of existing Com Ed equipment related to the transmission and distribution of electricity, including transmission lines and overhead distribution feeders.

20. Lot 5 of the Property is not currently used in any way by Com Ed for the distribution or transmission of electricity apart from the new construction, and is not currently the site of any Com Ed structures.

21. Lot 5 of the Property is adjacent to several other unimproved lots on Dikmen's Property that have been incorporated in Dikmen's plans for improving the Property. Dikmen's planned improvement of the Property involving construction of a mixed-use building requires the use of Lot 5 for the building's footprint.

22. Lot 4 of the Property lies on the other side of Lot 5 away from the lots that are a part of Dikmen's plans for improvement of the Property. Dikmen's planned improvement of his Property does not require the use of Lot 4.

23. One such ground is the fact that Com Ed provided an inaccurate location for a 36-inch sewage pipe in each and every plan and design submitted to the Commission. "Exhibit E" depicts a 36-inch sewer pipe extending underneath Lot 4.

24. However, on February 22, 2005, a Mr. Mohamed from the City of Chicago Department of Water Management made a site visit with Dikmen.

25. Mr. Mohamed verified for Dikmen the location of the 36-inch sewer line depicted in "Exhibit E," as well as in each and every other plan and design submitted by Com Ed to the Commission, as being under Lot 4, is actually under Lot 3.

26. Moreover, the "existing building" depicted as occupying numerous lots including Lots 1, 2, and 3 and the ramps attached to said building depicted as occupying Lot 4 in "Exhibit E," as well as in each and every other plan and design submitted by Com Ed to the Commission, have been demolished and removed earlier this year.

27. Also, Com Ed's plans have appeared to change as the plans depicted in Exhibit E do not reflect prior drawings. Attached hereto and made a part hereof as "Exhibit F" are plans provided to Dikmen on December, 2001, which appears to be inconsistent both in the size and location of the tunnel access hole referred to erroneously on numerous occasions by Com Ed staff as a "manhole."

28. Plaintiffs lack a remedy at law adequate to compensate them for the permanent damage being done to the Dikmen's property caused by the wrongful acts of Com Ed.

29. Dikmen plans on constructing a high-rise building utilizing the majority of Lot 5 for the majority of its foundation footprint. Attached are true and correct copies of the building's floor plan, attached hereto and made a part hereof as "Exhibit G," an artist's rendering is attached hereto and made a part hereof as "Exhibit H," and the explanation from the architect retained by Dikmen to plan his high rise building of the permanent damage that will be inflicted if Com Ed is permitted to complete their construction on Lot 5 pursuant to Com Ed's current plans is attached hereto and made a part hereof as "Exhibit I."

30. In addition to this Petition to Reopen the Proceeding, Dikmen has initiated a cause of action regarding this matter in the Chancery Division of the Circuit Court of Cook County.

**COUNT I—INACCURATE DEPICTION LOCATION OF SEWER LINE IN  
ALL OF COM ED'S DESIGNS REQUIRES REOPENING OF PROCEEDING**

31. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 31 as if the paragraphs are restated in their entirety.

32. Com Ed's error regarding the inaccurate location of the 36-inch sewer line in all of its design and plan documents are substantial factual changes to the record relied upon by the Commission in issuing its decision on June 19, 2002.

33. Dikmen was not aware of this change in facts until February 22, 2005.

34. Based upon the foregoing, the conditions for reopening a proceeding, set forth in Title 83 of the Illinois Administrative Code Section 200.900, are satisfied in this instance.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT II—DEMOLITION AND REMOVAL OF BUILDING DEPICTED  
IN ALL OF COM ED'S DESIGNS REQUIRES REOPENING OF PROCEEDING**

35. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 35 as if the paragraphs are restated in their entirety.

36. The demolition and removal of the building that once occupied Lots 1 through 3 is a substantial factual change to the record relied upon by the Commission in issuing its decision on June 19, 2002.

37. This substantial change in fact did not occur until earlier this year.

38. Based upon the foregoing, the conditions for reopening a proceeding, set forth in Title 83 of the Illinois Administrative Code Section 200.900, are satisfied in this instance.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT III—DEMOLITION AND REMOVAL OF LOADING RAMPS DEPICTED  
IN ALL OF COM ED'S DESIGNS REQUIRES REOPENING OF PROCEEDING**

39. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 39 as if the paragraphs are restated in their entirety.

40. The demolition and removal of the loadings ramps that occupied Lot 4 that previously attached to the building that once occupied Lots 1 through 3 is a substantial factual change to the record relied upon by the Commission in issuing its decision on June 19, 2002.

41. This substantial change in fact did not occur until earlier this year.

42. Based upon the foregoing, the conditions for reopening a proceeding, set forth in Title 83 of the Illinois Administrative Code Section 200.900, are satisfied in this instance.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following



Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT IV—APPARENT CHANGE IN THE LOCATION OF STRUCTURES SHOWN  
IN COM ED'S DESIGNS REQUIRES REOPENING OF PROCEEDING**

43. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 43 as if the paragraphs are restated in their entirety.

44. Com Ed's apparent change to the plans depicted in Exhibit E, as revealed in Exhibit F which appears to be inconsistent both in the size and location of a 32-foot by 27-foot permanent tunnel access hole referred to erroneously on numerous occasions by Com Ed staff as a "manhole," is a substantial factual change to the record relied upon by the Commission in issuing its decision on June 19, 2002.

45. Based upon the foregoing, the conditions for reopening a proceeding, set forth in Title 83 of the Illinois Administrative Code Section 200.900, are satisfied in this instance.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT V—COM ED WAS NEGLIGENT IN THEIR PREVIOUS ATTEMPTS TO  
SERVE DIKMEN REGARDING ORIGINAL PROCEEDING**

46. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 46 as if the paragraphs are restated in their entirety.

47. In the normal course of business as the Land Trust Officer, Cosmopolitan Bank & Trust by its agent Devin Fisher ("Fisher") files correspondence and legal notices related to trust accounts held at Cosmopolitan Bank & Trust into the trust account files. (¶ 2 of Fisher Affidavit, attached hereto as Exhibit J).

48. In the normal course of business as the Land Trust Officer, Fisher also contacts beneficiaries concerning any receipt of correspondence and legal notices related to trust accounts held at Cosmopolitan Bank & Trust. (¶ 3 of Fisher Affidavit, Exhibit J).

49. Per Mr. Dikmen's instructions Fisher reviewed the file for Trust Number 30932 for any notice, petition, or correspondence of any kind citing or referencing any proceedings before the Illinois Commerce Commission pursuant to ICC Docket Number 01-0833 or any other ICC Docket Number. (¶ 5 of Fisher Affidavit, Exhibit J).

50. Fisher reviewed the file for Trust Number 30932 per Mr. Dikmen's request and determined Cosmopolitan Bank & Trust is not in possession of the petition filed on December 21, 2001, by Com Ed under Docket Number 01-0833. Moreover, Cosmopolitan Bank & Trust is not in possession of any notice, petition, or correspondence of any kind for Trust Number 30932 citing or referencing any proceedings before the Commission pursuant to Docket Number 01-0833 or any other Commission Docket Number. (¶ 6 of Fisher Affidavit, Exhibit J).

51. Had Cosmopolitan Bank & Trust received any notice, petition, or correspondence of any kind for Trust Number 30932 citing or referencing any proceedings before the Commission pursuant to Docket Number 01-0833 or any other Commission Docket Number, it would be in the normal course of business for any such document to be filed under Trust Number 30932 and for the beneficiary, F. Ned Dikmen, to be notified. (¶ 7 of Fisher Affidavit, Exhibit J).

52. Moreover, while purporting to list each and every name of "OWNERS WHO MAY HAVE AN INTEREST IN LAND," there appears to have been, on information and belief, no attempt to contact Land Trust Number 30613 held at Cosmopolitan Bank & Trust. Mr. Jones, according to his filings under ICC Docket Number 01-0833, made no attempt at any time to provide notice to Land Trust Number 30613, a lot adjacent to land held in Trust Number 30932, in spite of the fact this property is also impacted by Com Ed's proposed construction.

53. These examples of negligence on the part of Com Ed in its attempts to serve all property owners set forth above negatively affected Dikmen's timely knowledge of the Commission's proceedings.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT VI—IRRATIONAL DESIGN REQUIRING ADDITIONAL  
CONSTRUCTION IS VIOLATION OF PUBLIC UTILITIES ACT  
AND REQUIRES REOPENING OF PROCEEDING**

54. Plaintiffs replead Paragraphs 5 through 30 and for their Paragraph 54 as if the paragraphs are restated in their entirety.

55. The Illinois Public Utilities Act, 220 ILCS 5/8-406(b), states in pertinent part:

The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure

adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

56. Com Ed's use of Lot 5 instead of Lot 4, as proposed by Dikmen, fails to satisfy requirements 1 and 3 established by the Illinois General Assembly in 220 ILCS 5/8-406(b), set forth above.

57. Com Ed's use of Lot 5 instead of Lot 4 does not satisfy requirement 3 of the Illinois Public Utilities Act, 220 ILCS 5/8-406(b), because use of Lot 5 is not less cost-effective than using Lot 4. Com Ed, by using Lot 5 instead of Lot 4, will need to excavate farther to reach the opposite endpoint across the North Branch Canal of the Chicago River from Dikmen's property. This diagonal path underneath the North Branch Channel of the Chicago River required by the use of Lot 5 as proposed by Com Ed instead of the use of Lot 4 as proposed by Dikmen is illustrated by a "West Loop-Crosby River Crossing Site Plan" reference drawing, attached hereto and made a part hereof as "Exhibit J." The additional length of the tunnel will necessarily add to the excavation and construction costs of this project as compared to using Lot 4.

58. Com Ed's use of Lot 5 instead of Lot 4 does not satisfy requirement 3 of the Illinois Public Utilities Act, 220 ILCS 5/8-406(b), because use of Lot 5 presents the potential of significant adverse financial consequences for Com Ed and its customers as compared to using Lot 4. Com Ed, by using Lot 5 instead of Lot 4, will need to excavate farther to reach the opposite endpoint across the North Branch Canal of the Chicago River from Dikmen's property. The additional length of the tunnel will necessarily add to the excavation and construction costs of this project as compared to using Lot 4, additional costs that may be passed along to the consumer.

59. Moreover, the use of Lot 5 is subjecting Dikmen to a complete loss of enjoyment and represents economic waste of real estate, resulting in the above-captioned litigation. Dikmen is also being compelled to reopen the administrative hearing process on this matter before the Illinois Commerce Commission. Each of these attempts by Dikmen to seek redress through legal processes of his injuries will add to Com Ed's legal expenses related to this project, costs that may be passed along to the consumers.

60. Accordingly, Com Ed's use of Lot 5 instead of Lot 4 violates the Illinois Public Utilities Act, 220 ILCS 5/8-406(b), and requires reopening of the proceeding.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT VII—BREACH OF EASEMENT AGREEMENT  
REQUIRES REOPENING OF PROCEEDING**

61. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 61 as if said paragraphs are restated in their entirety.

62. Com Ed's intended use would materially alter the Easements, placing a greater burden on Dikmen's Property and interfering with Dikmen's intended use and enjoyment of the property far beyond the scope of what is provided for by the language and the intent of the Easements.

63. The Plaintiffs maintain that the Easements, especially the Second and Third Easements dealing with the Easterly 107 feet of Lots 4 and 5, do not allow the use of Lots 4 and

5 for at-grade or above-grade construction as Com Ed intends. The Plaintiffs have offered, but are not required to offer, Lot 4 to Com Ed to use for at-grade development in place of Lot 5. Reasonable consideration for this offer has yet to be negotiated.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT VIII—DENIAL OF PLAINTIFF'S ENJOYMENT OF REAL PROPERTY  
REQUIRES REOPENING OF PROCEEDING**

64. Plaintiffs replead Paragraphs 5 through 30 for their Paragraph 64 as if the paragraphs are restated in their entirety.

65. Com Ed's use of Dikmen's Lot 5 for construction of its structures related to the project identified as West Loop Crosby River Crossing is interfering with Dikmen's lease with his current tenant, Central Contractors Service Company (hereinafter "Central Contractors").

66. Com Ed's use of Lot 4 instead of Lot 5, as proposed by Dikmen, would reduce the interference with Dikmen's lease with his current tenant, Central Contractors.

67. Moreover, Com Ed's use of Dikmen's Lot 5 for construction of its structures related to the project identified as West Loop Crosby River Crossing will require Dikmen to significantly alter or perhaps abandon entirely his construction plans for the building designed to be built on the Property.

68. In sum, Com Ed is preventing Dikmen from developing the building he planned by using Dikmen's Lot 5 instead of Lot 4 for Com Ed's construction related to the West Loop Crosby River Crossing, thereby depriving from Dikmen in its entirety the economic purpose for which he purchased the Property.

69. Com Ed's deprivation in its entirety of Dikmen's economic purpose for which he purchased the Property is a denial of Dikmen's enjoyment of his property by an easement holder in violation of Illinois law, and requires reopening of this proceeding.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

**COUNT IX—ECONOMIC WASTE OF REAL PROPERTY  
REQUIRES REOPENING OF PROCEEDING**

70. Plaintiffs replead Paragraphs 5 through 30 and for their Paragraph 70 as if the paragraphs are restated in their entirety.

71. The needless use of Lot 5 for additional construction by Com Ed related to distribution and transmission of electricity, thereby denying Dikmen the ability to move forward with his planned improvement of the Property, when Lot 4 is available for said construction and Lot 4 is already used by Com Ed for distribution and transmission of electricity constitutes economic waste of real property in violation of Illinois law, and requires reopening of this proceeding.

WHEREFORE, the Petitioner, Ned Dikmen, prays the Illinois Commerce Commission will grant his Petition to Reopen the Proceeding, and accordingly vacate the final Order issued in this matter on June 19, 2002, thereby temporarily revoking the Certificate of Public Convenience issued to Com Ed by the Commission until this proceeding is closed once again following Dikmen's opportunity to present arguments based on the new facts that have come to light and transpired since June 19, 2002.

Respectfully submitted,  
F. NED DIKMEN

By: Michael J. Fischer  
Attorney for F. Ned Dikmen

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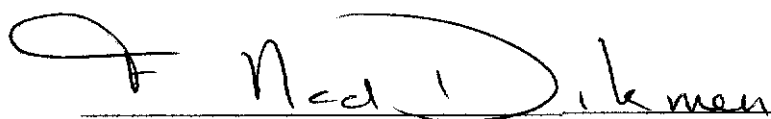
**VERIFICATION**

I, F. NED DIKMEN, under penalties as provided by law pursuant to 735 ILCS 5/1-109 of the Illinois Code of Civil Procedure, certify that I have read the preceding instrument, that I am familiar with the facts and matters therein set forth, and that the same are true to the best of my information and belief.



F.Ned Dikmen  
June 29, 2005

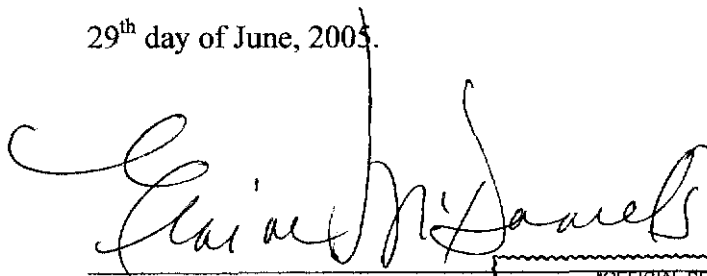
AFFIANT FURTHER SAYETH NOT



SIGNATURE

SUBSCRIBED and SWORN to before me this

29<sup>th</sup> day of June, 2005.



NOTARY PUBLIC

